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| 09/981,286      | 10/15/2001  | Stanley J. Watowich  | 265.00260101        | 4993             |

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| EXAMINER |
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MARSCHER, ARDIN H

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| ART UNIT | PAPER NUMBER |
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1631

DATE MAILED: 02/27/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/981,286

Applicant(s)

WATOWICH ET AL.

Examiner

Ardin Marschel

Art Unit

1631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-34 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-4 and 7; drawn to a collection of polypeptides, classified in class 530, subclass 300. If this Group is elected, then the below summarized specie election is also required.
- II. Claims 5 and 8-11, drawn to a polypeptide or a cell comprising a polypeptide, classified in class 435, subclasses 243 and 325. If this Group is elected, then the below summarized specie election is also required.
- III. Claim 6, drawn to a population of cells, classified in class 435, subclasses 243 and 325. If this Group is elected, then the below summarized specie election is also required.
- IV. Claims 12-15 and 17, drawn to a collection of polynucleotides, classified in class 536, subclass 23.1. If this Group is elected, then the below summarized specie election is also required.
- V. Claims 16 and 18, drawn to a vector or cell comprising a polynucleotide, classified in class 435, subclass 320.1. If this Group is elected, then the below summarized specie election is also required.
- VI. Claim 19, drawn to a population of cells, classified in class 435, subclass 243 and 325. If this Group is elected, then the below summarized specie election is also required.

- VII. Claims 20-24, drawn to a polypeptide crystal and method of crystallizing a polypeptide, classified in class 436, subclass 4.
- VIII. Claims 25-29, drawn to a method of identifying a polypeptide within a collection that prevents cell death, classified in class 435, subclass 32. If this Group is elected, then the below summarized specie election is also required.
- IX. Claims 30-34, drawn to a method of identifying a polypeptide within a collection that binds to a pathogen, toxin, or a polynucleotide; classified in class 435, subclass 7.1. If this Group is elected, then the below two (2) summarized specie elections are also required.

**SPECIE ELECTION REQUIREMENT FOR GROUP I:**

This application contains claims directed to the following patentably distinct species of the claimed invention:

Within instant claims 1-4 and 7 species of fragments of SEQ ID NO: 1; optionally with replacement amino acids Xaa<sub>n</sub>, or a selection from SEQ ID Nos. 33 and 34; are set forth as a claimed collection of polypeptides. If Group I is elected then applicants are hereby required to elect two specific polypeptides in order to initiate examination of said collection claims. Such polypeptides as fragments or claim 7 polypeptides are deemed distinct species due to apparent differing sequences which thus distinctly define their functions and characteristics.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is

finally held to be allowable. Currently, claims 1-4 and 7 are generic to at least some sets of species of polypeptide collections.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

**SPECIE ELECTION REQUIREMENT FOR GROUP II:**

This application contains claims directed to the following patentably distinct species of the claimed invention:

Within claims 5 and 11, species of cells containing a fragment of SEQ ID NO: 1; optionally with replacement amino acids Xaa<sub>n</sub>, are set forth as a claimed cell types. If Group II is elected then applicants are hereby required to elect one specific polypeptide as contained within a cell in order to initiate examination of said cell claims. Such cells containing a polypeptide as a fragment are deemed distinct species due to apparent differing polypeptide sequences which thus distinctly define their functions and characteristics.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, each of claims 5 and 11 are generic to at least some sets of species of cells containing a polypeptide.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

**SPECIE ELECTION REQUIREMENT FOR GROUP III:**

This application contains claims directed to the following patentably distinct species of the claimed invention:

Within claim 6, species of populations of cells containing fragments of SEQ ID NO: 1; optionally with replacement amino acids Xaa<sub>n</sub>, are set forth as a claimed cell population types. If Group III is elected then applicants are hereby required to elect two specific polypeptide containing cell types in order to initiate examination of said cell population claims. Such cell populations containing polypeptides as fragments are deemed distinct species due to apparent differing polypeptide sequences which thus distinctly define their functions and characteristics.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 6 is generic to the species of populations of cells containing a polypeptide.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims

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readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

**SPECIE ELECTION REQUIREMENT FOR GROUP IV:**

This application contains claims directed to the following patentably distinct species of the claimed invention:

Within instant claims 12-15 and 17, species of collections of polynucleotides encoding fragments of SEQ ID NO: 1; optionally with replacement amino acids Xaa<sub>n</sub>, are set forth as a claimed collection of polynucleotides. If Group IV is elected, then applicants are hereby required to elect two specific polynucleotides encoding corresponding polypeptides in order to initiate examination of said collection claims.



Such polynucleotides encoding corresponding polypeptides as fragments of polypeptides are deemed distinct species due to apparent differing sequences which thus distinctly define their functions and characteristics.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 12-15 and 17 are generic to at least some sets of species of polynucleotide collections.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

**SPECIE ELECTION REQUIREMENT FOR GROUP V:**

This application contains claims directed to the following patentably distinct species of the claimed invention:

Within claims 16 and 18, species of vectors or cells containing a polynucleotide encoding a fragment of SEQ ID NO: 1; optionally with replacement amino acids Xaa<sub>n</sub>, are set forth as a claimed vector or cell types. If Group V is elected, then applicants are hereby required to elect one specific polypeptide as encoded by a polynucleotide as contained within a vector or cell in order to initiate examination of said vector and cell claims. Such vectors or cells containing a polynucleotide encoding a polypeptide as a fragment are deemed distinct species due to apparent differing polypeptide sequences which thus distinctly define their functions and characteristics.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, each of claims 16 and 18 are generic to at least some sets of species of vectors or cells containing a polynucleotide encoding a polypeptide.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim

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is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

**SPECIE ELECTION REQUIREMENT FOR GROUP VI:**

This application contains claims directed to the following patentably distinct species of the claimed invention:

Within claim 19, species of populations of cells containing a polynucleotide encoding a polypeptide fragment of SEQ ID NO: 1; optionally with replacement amino acids Xaa<sub>n</sub>, are set forth as a claimed cell population types. If Group VI is elected, then applicants are hereby required to elect two specific cells each containing a polynucleotide which encodes a polypeptide in order to initiate examination of said cell population claims. Such cell populations containing a polynucleotide encoding a

polypeptide as a fragment are deemed distinct species due to apparent differing cell populations each cell therein containing a polynucleotide encoding a polypeptide sequence which thus distinctly define their functions and characteristics.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 19 is generic to the species of populations of cells containing a polynucleotide encoding a polypeptide.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

**SPECIE ELECTION REQUIREMENT FOR GROUP VIII:**

This application contains claims directed to the following patentably distinct species of the claimed invention:

Within claims 25-29, methods directed to using a specie of cell containing a fragment of SEQ ID NO: 1; optionally with replacement amino acids Xaa<sub>n</sub>, are set forth as a claimed method types. If Group VIII is elected, then applicants are hereby required to elect one specific cell containing a polypeptide in order to initiate examination of said method claims. Such methods directed to using a cell containing a polypeptide as a fragment are deemed distinct species due to apparent differing polypeptide sequences which thus distinctly define their functions and characteristics.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, each of claims 25-29 are generic to at least some sets of species of methods utilizing a cell containing a polypeptide.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

**FIRST SPECIE ELECTION REQUIREMENT FOR GROUP IX:**

This application contains claims directed to the following patentably distinct species of the claimed invention:

Within claims 30-34, methods directed to using a specie of cell containing a fragment of SEQ ID NO: 1; optionally with replacement amino acids Xaa<sub>n</sub>, are set forth as a claimed method types. If Group IX is elected, then applicants are hereby required to elect one specific cell containing a polypeptide in order to initiate examination of said method claims. Such methods directed to using a cell containing a polypeptide as a fragment are deemed distinct species due to apparent differing polypeptide sequences which thus distinctly define their functions and characteristics.

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Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, each of claims 30-34 are generic to at least some sets of species of methods utilizing a cell containing a polypeptide.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

**SECOND SPECIE ELECTION FOR GROUP IX:**

This application contains claims directed to the following patentably distinct species of the claimed invention:

Group IX additionally is directed to binding assays for distinct binding ligand species as listed in claim 30 as:

Specie A: pathogen

Specie B: toxin

Specie C: polypeptide

Specie D: polynucleotide

These species are distinct as binding characteristics are determined and controlled by the different chemical structures of each type of binding ligand.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 30-34 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims



are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

The inventions are distinct, each from the other because of the following reasons:

The inventions of Groups (I, II, III, VII, VIII, and IX) and Groups (IV, V, and VI) are independent inventions because they are directed to different chemical types regarding the critical limitations therein. For Groups I - III and VII - IX, the critical feature is(are) a polypeptide(s). For Groups IV - VI, the critical feature is(are) polynucleotide(s). It is acknowledged that various processing steps may cause a polypeptide of Groups I - III or VII - IX to be directed as to its synthesis by a polynucleotide of Groups IV - VI, however, the completely separate chemical types of the inventions of the polynucleotide and polypeptide Groups supports the undue search burden if both were examined together. Additionally, polynucleotides and polypeptides have been most commonly, albeit not always, separately characterized and published in the Biochemical literature, thus significantly adding to the search burden if examined together as compared to being searched separately. Also, it is pointed out that processing that may connect two Groups does not prevent them from being viewed as distinct because enough processing can result in producing any composition from any other composition if the

processing is not limited as to additions, subtractions, enzyme action, etc. Thus, the Groupings of (I – III and VII - IX) versus (IV - VI) are independent and/or distinct invention types for restriction purposes.

The inventions of Groups I – III and VII and Groups VIII and IX are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the polypeptide(s) or crystals of Groups I – III and VII may be utilized in the distinct processes of either of Groups VIII or IX or, alternatively, in an immunoassay or binding assay for the detection or diagnosis of the presence of virus, due to the central sequences in the claims being prepared from a virus.

Groups VIII and IX are distinct methods of use in that Group VIII is directed to cellular death methodology whereas Group IX is directed to binding assays which are deemed detection assays for certain macromolecules, thus each Group clearly being directed to distinct and generally separately searched methods thus documenting the undue search burden if searched together.

Groups I, II, III, and VII are distinct from each other in that single polypeptides or cells containing such single polypeptides are generally characterized via such single characterizations directed to such single macromolecule function(s) and interactions, whereas a collection of either polypeptides or cell collections are generally utilized in profiling analyses covering overall collection patterns which is a separate analysis from

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single cell or polypeptide characterization. This difference documents the undue search burden as the subject matter of Groups I and III are thus distinct from the single polypeptide subject matter of Groups II and VII. Additionally Group I is distinct from Group III in that collections of polypeptides as in Group I generally are characterized and utilized for direct binding interactions whereas cell contained polypeptides as in Group III are characterized and utilized for expression and cellular function activity. Thus, these Groups are distinct and documents the undue search if they are searched together. Groups II and VII are distinct because single polypeptides as in Group II whether in a cell or not are characterized via such single polypeptide characteristics whereas a crystal or method of crystallization is directed to either purification of a polypeptide or its characterization in X-ray crystallography type three-dimensional analysis and thus is also distinct subject matter, documenting the undue search burden if these different subject matter Groups were to be searched together.

Groups IV - VI are distinct from each other in that single vectors or cells containing a single polynucleotide are generally characterized via such single characterizations directed to a single macromolecule function(s) and interactions, whereas a collection of either vectors or cell collections are generally utilized in profiling analyses covering overall collection patterns which is a separate analysis from single vector or cell characterization. This difference documents the undue search burden as the collection or cell population subject matter of Groups IV and VI are thus distinct from the single vector or cell subject matter of Group V. Additionally Group IV is distinct from Group VI in that collections of polynucleotides as in Group IV generally are

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characterized and utilized for direct binding interactions whereas cells contained polynucleotides as in Group VI are characterized and utilized for expression and cellular function activity. Thus, these Groups are distinct and documents the undue search if they are searched together.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993)(See 37 CFR § 1.6(d)). The CM1 Fax Center number is either (703)308-4242 or (703)305-3014.

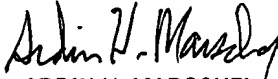
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ardin Marschel, Ph.D., whose telephone number is (703)308-3894. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, Ph.D., can be reached on (703)308-4028.

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Any inquiry of a general nature or relating to the status of this application should be directed to Legal Instrument Examiner, Tina Plunkett, whose telephone number is (703)305-3524 or to the Technical Center receptionist whose telephone number is (703) 308-0196.

February 24, 2003

  
ARDIN H. MARSCHEL  
PRIMARY EXAMINER